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DEPARTMENT OF  
WATER RESOURCES

Jeffrey C. Fereday (ISB # 2719)  
Michael C. Creamer (ISB # 4030)  
Brad V. Sneed (ISB # 6254)  
GIVENS PURSLEY LLP  
601 Bannock Street, Suite 200  
P.O. Box 2720  
Boise, ID 83701-2720  
Telephone: (208) 388-1200  
Facsimile: (208) 388-1300  
[jefffereday@givenspursley.com](mailto:jefffereday@givenspursley.com)  
[mcc@givenspursley.com](mailto:mcc@givenspursley.com)

Attorneys for Idaho Ground Water  
Appropriators, Inc.

Josephine P. Beeman (ISB # 1806)  
Beeman & Associates, P.C.  
409 West Jefferson Street  
Boise, ID 83702  
Telephone: (208) 331-0950  
Facsimile: (208) 331-0954  
[office@beemanlaw.com](mailto:office@beemanlaw.com)

Sarah A. Klahn  
William A. Hillhouse II  
White & Jankowski, LLP  
511 16th St., Ste. 500  
Denver, CO 80202  
Telephone: (303) 595-9441  
Facsimile: (303) 825-5632  
[sarahk@white-jankowski.com](mailto:sarahk@white-jankowski.com)  
[billh@white-jankowski.com](mailto:billh@white-jankowski.com)

Attorneys for City of Pocatello

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF  
WATER TO VARIOUS WATER RIGHTS  
HELD BY OR FOR THE BENEFIT OF A & B  
IRRIGATION DISTRICT, AMERICAN FALLS  
RESERVOIR DISTRICT #2, BURLEY  
IRRIGATION DISTRICT, MILNER  
IRRIGATION DISTRICT, MINIDOKA  
IRRIGATION DISTRICT, NORTH SIDE  
CANAL COMPANY, and TWIN FALLS  
CANAL COMPANY

**IGWA AND THE CITY OF POCATELLO'S  
JOINT REQUEST FOR DEPOSITION OF  
ADDITIONAL IDWR EMPLOYEES**

Idaho Ground Water Appropriators, Inc ("IGWA") and the City of Pocatello  
("Pocatello"), by and through their respective counsel of record, jointly submit this Request to  
depose an additional employee or employees of the Idaho Department of Water Resources  
("IDWR" or "Department") or Department contractors who can testify regarding various issues

identified below related to: 1) the Surface Water Coalition (“SWC”) January 14, 2005 delivery call (“Delivery Call”); 2) the Department’s February 14<sup>th</sup>, April 19<sup>th</sup> and May 2<sup>nd</sup> Orders on the SWC’s Delivery Call (“Delivery Call Orders”); and 3) IGWA’s several filings with the Department concerning providing replacement water for 2005 (“Replacement Water Plan”), which were required by the Department’s Delivery Call Orders and the Department’s May 2, 2005 Amended Order (collectively the “Delivery Call Review”).

Although IGWA and Pocatello previously filed a joint request to depose certain Department employees and contractors, testimony taken in depositions of Tim Luke and Michael Ciscell made clear that the list of persons jointly requested on August 23, 2005, was incomplete and, in certain cases, inaccurate.<sup>1</sup> Based on this recent experience, and mindful that unnecessary depositions are an unnecessary expense and inconvenience to the parties to this case as well as the Department, IGWA and Pocatello request that the Department designate the person or persons who can speak for the Department regarding the following issues related to the agency’s Delivery Call Review, and in such designation, specify which of the following areas the designated person(s) will be qualified to testify about:

**1. WATER SUPPLY AVAILABILITY ANALYSIS.**

Analysis of data concerning the historical surface water supply available to SWC members, including the analysis of information contained in the SWC’s March 15 and April 18<sup>th</sup> information submittals relative to the items a, b, e, f, g, h and i listed in Finding of Fact 7 of the Department’s May 2, 2005 Amended Order, and including analysis in support of Findings of Fact 88 through 107 of the May 2, 2005 Amended Order.

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<sup>1</sup> Pocatello and IGWA’s list was developed based on their best understanding at that time concerning persons at the Department and at the Idaho Water Resources Research Institute (“IWRRI”) who were most likely to have participated materially in the Department’s Delivery Call Review.

**2. GROUND WATER AVAILABILITY.**

Analysis of data concerning the extent of ground water available to lands served by SWC members, including information contained in the SWC's March 15 and April 18<sup>th</sup> information submittals to the Department, particularly any documentation relative to items c and d listed in Finding of Fact 7 of the Department's May 2, 2005 Amended Order, and analysis of any other data obtained by the Department.

**3. MATERIAL INJURY.**

Analysis performed in support of the determination of : 1) reasonably likely material injury, including analysis or investigations relative to alleged shortages in surface water supplies for irrigation, determinations of minimum full supplies, reasonable carryover, predicted 2005 carryover and predicted 2005 material injury described in Findings of Fact 108 through 122; and 2) effects of SWC water bank, leasing and other activities on storage and carryover storage supplies discussed in Findings of Fact 83 through 87 and the relationship of any such effects to the Department's determination of reasonably likely material injury in 2005.

**4. ACTUAL SWC BENEFICIAL USE/REDUCED ACRES ANALYSIS.**

Analysis of data concerning the extent of actual beneficial use of water within lands served by SWC members, or concerning reductions in irrigated acres or beneficial use due to alleged water shortages, including information contained in the SWC's March 15 and April 18<sup>th</sup> information submittals relative to items i and j listed in Finding of Fact 7 of the Department's May 2, 2005 Amended Order.

**5. COMPUTER MODELING ANALYSIS.**

Any computer simulations/model runs and related analysis performed in support of the Delivery Call Review, including model runs made in support of:

- a. establishing the February 27, 1979 priority date for curtailments of ground water rights in Water Districts 120 and 130;
- b. determining the transient and steady state accruals to reach gains between Near Blackfoot gage and the Minidoka gage as a result of ground water curtailments described in Findings of Fact 123 through 131 of the May 2, 2005 Amended Order;
- c. estimating the steady state reach gains resulting from ground water curtailments in Water Districts 120 and 130 described in Finding of Fact 77 of the May 2, 2005 Amended Order; and
- d. determining mitigation credits for reach gains resulting from dry-year leasing, the FMC water rights lease, ongoing WD 130 mitigation activities; voluntary curtailments and other mitigation actions described in IGWA's Replacement Water Plans.

IGWA and Pocatello seek to depose only that person or those persons who can speak for the Department regarding these matters—meaning the person(s) who have substantive, detailed knowledge of the Department's analysis of these matters—and do not seek to depose the cadre of employees who may have performed the actual analyses underpinning these issues related to the Order.

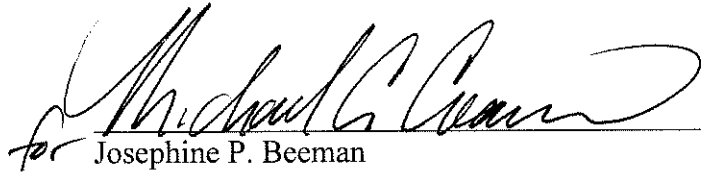
IGWA and Pocatello also request that the Department make available the designated person(s) for deposition. However, as there are nine active parties to the Delivery Call case that currently are engaged in relatively amicable discovery, including cooperative attempts to schedule site visits and depositions, IGWA and Pocatello also ask that to the extent the Department will determine when and where the designated person(s) will be made available for deposition, such availability will be consistent with the draft site visit and deposition schedule attached to this pleading if possible. As time for discovery is limited in this matter, it would expedite matters if the person(s) were made available at times that did not conflict with presently scheduled depositions or site visits.

DATED this 20<sup>th</sup> day of September 2005.



Jeffrey C. Fereday  
Michael C. Creamer  
Brad V. Sneed  
Givens Pursley LLP

*Attorneys for Idaho Ground Water Appropriators*

  
for

Josephine P. Beeman  
Beeman & Associates, P.C.

*Attorneys for City of Pocatello*

  
for

Sarah A. Klahn  
White & Jankowski, LLP

*Attorneys for City of Pocatello*

## CERTIFICATE OF SERVICE

I hereby certify that on this 20<sup>th</sup> day of September 2005, I served a true and correct copy of the foregoing by delivering it to the following individuals by the method indicated below, addressed as stated.

Mr. Karl J. Dreher  
Director  
Idaho Department of Water Resources  
322 East Front Street  
P.O. Box 83720  
Boise, ID 83720-0098

☐ U.S. Mail  
☐ Facsimile  
☐ Overnight Mail  
☒ Hand Delivery  
☐ E-mail

C. Tom Arkoosh, Esq.  
Arkoosh Law Offices, Chtd.  
301 Main Street  
P.O. Box 32  
Gooding, ID 83330

☒ U.S. Mail  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail

W. Kent Fletcher, Esq.  
Fletcher Law Office  
P.O. Box 248  
Burley, ID 83318-0248

☒ U.S. Mail  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail

Roger D. Ling, Esq.  
Ling, Robinson & Walker  
615 H St.  
P.O. Box 396  
Rupert, ID 83350-0396

☒ U.S. Mail  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail

John A. Rosholt, Esq.  
John K. Simpson, Esq.  
Travis L. Thompson, Esq.  
Barker, Rosholt & Simpson  
113 Main Avenue West, Ste. 303  
Twin Falls, ID 83301-6167

☒ U.S. Mail  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail

Kathleen Marion Carr, Esq.  
Office of the Field Solicitor  
U.S. Department of the Interior  
550 West Fort Street, MSC 020  
Boise, ID 83724-0020

☒ U.S. Mail  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail

Matt J. Howard, Esq. U.S. Bureau of Reclamation Pacific Northwest Region 1150 N. Curtis Road Boise, ID 83706-1234	<u>  X  </u> U.S. Mail <u>      </u> Facsimile <u>      </u> Overnight Mail <u>      </u> Hand Delivery <u>      </u> E-mail
Scott L. Campbell, Esq. Moffatt Thomas Barrett Rock & Fields, Chtd. 101 S. Capitol Blvd., 10th Floor P.O. Box 829 Boise, ID 83701-0829	<u>  X  </u> U.S. Mail <u>      </u> Facsimile <u>      </u> Overnight Mail <u>      </u> Hand Delivery <u>      </u> E-mail
Michael S. Gilmore, Esq. Deputy Attorney General Civil Litigation Division Office of the Attorney General P.O. Box 83720 Boise, ID 83720-0010	<u>  X  </u> U.S. Mail <u>      </u> Facsimile <u>      </u> Overnight Mail <u>      </u> Hand Delivery <u>      </u> E-mail
Josephine P. Beeman, Esq. Beeman & Associates PC 409 West Jefferson Boise, ID 83702-6049	<u>  X  </u> U.S. Mail <u>      </u> Facsimile <u>      </u> Overnight Mail <u>      </u> Hand Delivery <u>      </u> E-mail
Sarah A. Klahn, Esq. White & Jankowski, LLP 511 16th Street, Suite 500 Denver, CO 80202	<u>  X  </u> U.S. Mail <u>      </u> Facsimile <u>      </u> Overnight Mail <u>      </u> Hand Delivery <u>      </u> E-mail
Terry T. Uhling, Esq. J.R. Simplot Company 999 Main Street P.O. Box 27 Boise, ID 83707	<u>  X  </u> U.S. Mail <u>      </u> Facsimile <u>      </u> Overnight Mail <u>      </u> Hand Delivery <u>      </u> E-mail
James C. Tucker, Esq. Idaho Power Company 1221 West Idaho P.O. Box 70 Boise, ID 83707	<u>  X  </u> U.S. Mail <u>      </u> Facsimile <u>      </u> Overnight Mail <u>      </u> Hand Delivery <u>      </u> E-mail

James S. Lochhead, Esq.  
Adam T. DeVoe, Esq.  
Brownstein, Hyatt & Farber P.C.  
410 17th Street, 22nd Floor  
Denver, CO 80202

☒ U.S. Mail  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail

Mr. Ron Carlson  
Mr. Lewis Rounds  
Idaho Department of Water Resources  
Eastern Regional Office  
900 North Skyline Dr.  
Idaho Falls, ID 83402-6105

☒ U.S. Mail  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail

Mr. Allen Merritt  
Ms. Cindy Yenter  
Idaho Department of Water Resources  
Southern Regional Office  
1341 Fillmore St., Ste. 200  
Twin Falls, ID 83301-3033

☒ U.S. Mail  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail



Jeffrey C. Fereday  
Michael C. Creamer  
Brad V. Sneed



### DRAFT DEPOSITION AND SITE VISIT SCHEDULE

DATE	EVENT DETAILS
09/19/05	Site Visit for Burley Irrigation District
	Site Visit of Minidoka Irrigation District
09/20/05	Deposition of Burley Irrigation District
	Deposition of Minidoka Irrigation District
09/21/05	Site Visit for Twin Falls Canal Company
09/22/05	Deposition of Twin Falls Canal Company
09/23/05	Continuation of Twin Falls Canal Company Depositions if Necessary
09/28/05	Deposition of Dave Tuthill
09/29/05	Site Visit for A&B Irrigation District (tentative)
09/30/05	Site Visit for American Falls Reservoir District #2 (tentative)
10/03/05	Site Visit Milner Irrigation District (tentative)
10/04/05	Site Visit North Side Canal Company (tentative)
10/05/05	Deposition of Alan Wylie
10/06/05	Deposition of Potential Additional Designated IDWR Witness
10/10/05	Deposition of American Falls Reservoir District #2
10/11/05	Deposition of Ron Carlson
10/12/05	Deposition of Bryce Contor
10/18/05	Deposition of Milner Irrigation District (tentative)
10/19/05	Deposition of North Side Canal Company (tentative)
10/20/05	Deposition of A&B Irrigation District (tentative)
10/24/05	Deposition of U.S. Bureau of Reclamation
10/25/05	Continued Depositions of U.S. Bureau of Reclamation